

**PROPERTY ASSESSMENT APPEAL BOARD  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-10111R

Parcel No. 110/01589-000-000

**Shannon Kale & Jeffrey Bagley,**

Appellants,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

This appeal came before the Property Assessment Appeal Board (PAAB) for written consideration on July 24, 2020. Shannon Kale and Jeffrey Bagley were self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Shannon Kale and Jeffrey Bagley (Appellants) own a residential property located at 4135 East 7th Street, Des Moines. The property's January 1, 2019, assessment was set at \$146,900, allocated as \$23,500 in land value and \$123,400 in dwelling value. (Exs. A & B).

Appellants petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property under Iowa Code § 441.37(1)(a)(1) (2019). (Ex. C). The Board of Review denied the petition.

Appellants then appealed to PAAB reasserting their claim.

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **Findings of Fact**

The subject property is a one-story home built in 1956. It has 1076 square feet of gross living area with 468 square feet of average-plus quality basement finish, and a 220 square foot enclosed porch. The home has two bathrooms and a fireplace. It is listed in above-normal condition with average-quality construction (grade 4+00). There is also a 352-square-foot detached garage on the property, which was built in 1964. The Assessor's Office applied 25% physical depreciation to the dwelling and 50% physical depreciation to the garage. The site is 0.233 acres. (Ex. A).

Appellants purchased the property in 2017 for \$154,900; \$8,000 more than the current assessment. There is no indication in the record the sale was an abnormal transaction.

In their protest to the Board of Review, Appellants submitted three properties in their neighborhood they believed demonstrate their assessment is not equitable: 4120 E 7th Street, 4110 E 8th Street, and 4113 E 9th. (Ex C). However, a review of the property listings that Appellants provided to the Board of Review indicates they incorrectly relied on sales of the properties from 1998 and 1999, rather than those properties' current assessments. (Ex. C Attachments).

On their appeal to PAAB, Appellants submitted four comparables and their property record cards. (Appeal & Exs. 1-4). Again, they incorrectly identified the January

1, 2019 assessments. Rather, they reported the 2017 assessment for each property. The Board of Review analyzed these comparables, noting their correct 2019 assessments, and identified the differences between them and the subject property. The following table summarizes this information. (Exs. D & 1-4).

Address	Gross Living Area (SF)	Basement Finish (SF)	Condition	Bathrooms	2019 Assessed Value
Subject	1076	468 Av+	Above Normal	2	\$146,900
1 – 4116 E 8th	1024	950 Av	Above Normal	2	\$140,700
2 – 4110 E 8th	1039	600 Low	Normal	1	\$122,200
3 – 4037 E 10th	963	0	Normal	1	\$106,600
4 – 4147 E 7th	1036	250 Av	Normal	1	\$131,500

All of the comparables are similar in style, age, grade, and site size to the subject. The subject home has the largest living area, the highest quality basement finish, and is the only home with a fireplace. With the exception of 4116 E 8th Street, the subject property has two bathrooms whereas the comparables only have one. Additionally, only one property, 4147 E 7th Street, has an enclosed porch like the subject. The subject property's enclosed porch, fireplace, and additional bathroom add value to its assessment that is not attributable to the comparables because they generally lack these features.<sup>1</sup> These differences explain the subject's higher assessment.

Appellants noted all of their comparables have larger garages than theirs. The property record cards and the Board of Review analysis confirm the subject property's garage is approximately 180 square feet smaller than the comparables' garages. (Exs. D & 1-4). Nevertheless, as previously noted, the subject property has other features the comparables lack that result in its higher assessment.

Only one property recently sold: Comparable 1 at 4116 E 8th Street sold in March 2019 for \$139,900; it's 2019 assessment was \$140,700. (Ex. 1). This represents

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<sup>1</sup> The value attributed to these items before depreciation and other adjustments is shown on the subject property's cost report (Ex. A), and is as follows: Enclosed Porch \$11,700; Fireplace \$5500; Extra Bathroom \$3000.

an assessed value to sale price ratio of 1.00, indicating its assessment is at or very close to its market value. None of the properties sold in 2018.

### **Analysis & Conclusions of Law**

Appellants contend the subject property is inequitably assessed. § 441.37(1)(a)(1). They bear the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Appellants offered the assessed values of neighboring properties to support their claim. However, the record indicates the differences in the assessments stem from the different amenities of these homes. Nothing in the record shows a non-uniform method of assessing these differences.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* None of the comparables sold in 2018. Accordingly, the Maxwell analysis cannot be completed. We note the one sale that occurred subsequent to the assessment date (Comparable 1) indicates its assessment is at or very close to its market value.

Additionally, Appellants' purchase of the subject property in 2017 is the most recent sale submitted prior to the January 1, 2019, assessment and it exceeds the assessment. Nothing about the sale indicates it was abnormal and should not be relied on. The purchase price of a property is to be considered by statute in arriving at market value. Iowa Code §441.21(1)(b).

Viewing the record as a whole, we conclude that Appellants failed to show their property was inequitably assessed.

## Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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